

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL ANDREW WOOD ,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. 2:23-cv-01521-JCC

**ORDER APPOINTING COUNSEL
FOR § 2255 MOTION**

In July 2022, Petitioner, Michael Andrew Wood, pleaded guilty to one count of conspiracy to distribute controlled substances in case number CR20-0092-JCC. He also admitted violating two supervised release conditions imposed in CR14-5105. On September 29, 2023, Petitioner filed a 28 U.S.C. § 2255 motion to set the sentence imposed in CR20-0092 on the grounds that (1) he was denied effective assistance of counsel; (2) the prosecution had a conflict of interest; (3) his criminal history was overstated; and (4) his plea was wrongly accepted because the Government did not prove the conspiracy charge.

The Court denied and dismissed all § 2255 grounds for relief with one exception. The Court ordered an evidentiary hearing for the limited purpose of determining whether Petitioner affirmatively requested that defense counsel, Jeffrey Kradel, file a notice of appeal. Dkt. 23 at 8. The Rules Governing Section § 2255 cases require appointment of counsel when an evidentiary

1 hearing is ordered. *United States v. Duarte-Higareda*, 68 F.3d 369 (9th Cir. 1995). *See also*
2 Rules Governing Section § 2255 Cases Rule 8(c). Petitioner was deemed indigent when he was
3 arrested and made his first appearance in 2021. Since his arrest he has remained in custody and
4 thus the Court ORDERS:

5 (1) The Clerk shall contact the Criminal Justice Administrator (CJA) for the purpose
6 of securing counsel to represent Petitioner at public expense. The scope of appointed counsel's
7 appointment is limited to representing Petitioner as to the remaining claim for § 2255 relief:
8 Whether Petitioner affirmatively requested trial counsel to file a notice of appeal.

9 (2) Within fourteen (14) days of making an appearance for Petitioner, counsel for
10 Petitioner and the United States shall submit a joint proposal for the date of an evidentiary
11 hearing. The joint proposal should also address whether Petitioner will appear via phone, video,
12 or in person.

13 (3) The clerk shall provide a copy of this order to all parties.

14 DATED this 23rd day of February, 2024.

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17 BRIAN A. TSUCHIDA
United States Magistrate Judge